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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,535	09/19/2003	Jeffrey S. Lockwood	7175-73441	4275

23643 7590 10/16/2006

BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

EXAMINER

BOGART, MICHAEL G

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/664,535

Applicant(s)

LOCKWOOD ET AL.

Examiner

Michael G. Bogart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-35, 38 and 39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-35, 38 and 39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 7/31/2006; 8/18/2006.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claims 32-35 are objected to because of the following informalities:

Claim 32, at line 8, recites: "the wound surface of the wound". This language appears to be redundant.

Claims 33-35 depend either directly or indirectly from cancelled claim 36. For the purposes of examination against the prior art, claims 33 and 34 are interpreted as depending from claim 32.

Appropriate correction is required.

Claim Rejections § 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 32, 34, 35, 38 and 39 are rejected under 35 U.S.C. § 102(b) as being anticipated by Thrash *et al.* (WO 98/38944 A1; hereinafter "Thrash").

Thrash teaches a method of providing suction and irrigation to an open wound surface comprising the steps of:

Providing a relatively thin and flexible member (100, 600) having a wound contacting surface with holes (116, 122, 616, 622) in the surface, a port (110, 112, 610, 612) capable of being attached to a vacuum source (300) and a fluid source (414) for

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irrigation, passageways (108, 114, 120, 608, 614, 620) connecting the holes (116, 122, 616, 622) to the port (110, 112, 610, 612), and spacers (102, 104) coupled to the wound contacting surface, placing the spacers (102, 104) against the surface of the wound to space the wound contacting surface apart from the wound surface of the wound, and providing a cover (106) over and sealed about the wound and the member (100) to define a space above the wound in which a vacuum is formed when the port (110, 112, 610, 612) is connected to a vacuum source (300)(page 3, line 6-page 4, line 8; page 10, line 15-page 12, line 16; page 15, lines 18-24)(see figs. 6, 7, 18 & 19, below).

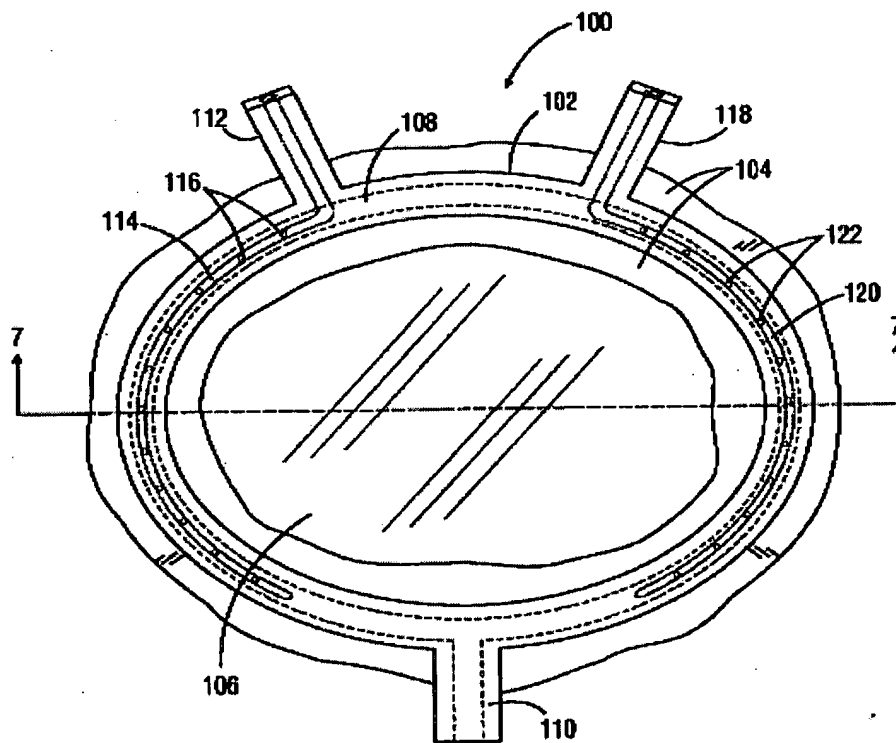


FIG. 6

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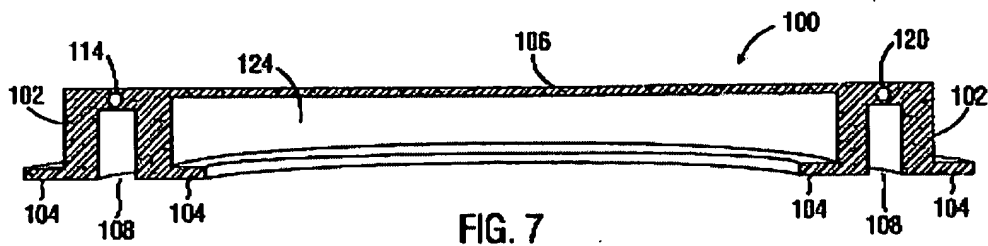


FIG. 7

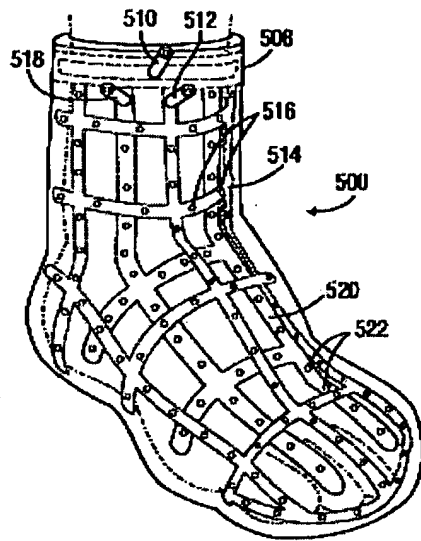


FIG. 18

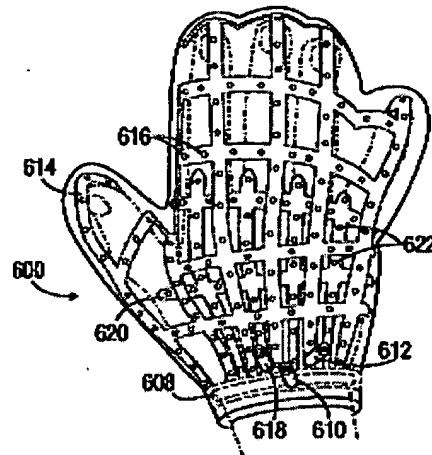


FIG. 19

Regarding claims 34, 35 and 38, Trash teaches the step of irrigating the surface of the wound with irrigation fluid provided through a plurality of holes (112, 612).

Regarding claim 39, Thrash teaches separate irrigation (112, 612) and vacuum (110, 610) ports.

Claim Rejections – 35 USC § 103

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. § 103(c) and potential 35 U.S.C. § 102(e), (f) or (g) prior art under 35 U.S.C. § 103(a).

Claim 33 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Thrash as applied to claims 32, 34 and 35, above, and further in view of Olson (US 5,735,833 A).

Thrash does not disclose expressly a transparent flexible member.

Olson teaches a suction and irrigation cover (18) that is transparent so as to facilitate observation of a wound (col. 2, lines 59-67).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to select the transparent construction of Olson to make the member of Thrash in order to allow observation of a wound under the member.

Response to Arguments

Applicant's arguments with respect to claims 32-35, 38 and 39 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (571) 272-4933.

In the event the examiner is not available, the Examiner's supervisor, Tatyana Zalukaeva may be reached at phone number (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for formal communications. For informal communications, the direct fax to the Examiner is (571) 273-4933.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Bogart
11 October 2006

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

